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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PROUTY, REBECCA E

ART UNIT

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1652

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/1/08 has been entered.

Claims 3, 5, 7-10, 12-14 and 16 have been canceled. Claims 1, 2, 4, 6, 11, and 15 are at issue and are present for examination.

Claims 1 and 2 are objected to because of the following informalities: the word "the" should be inserted prior to "average cysteine content". Appropriate correction is required.

Claims 1, 2, 4, 6, 11, and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification as filed fails to provide support for the recitation of "wherein the serine-rich protein contains cysteine

Art Unit: 1652

less than or the same as average cysteine content in cellular proteins of the bacterium" in Claims 1 and 2 (upon which claims 4, 6, 11, and 15 depend). Applicants state that the amendment to claims 1 and 2 may be supported by the description of the specification, which extensively discusses serine-rich proteins and different types of such proteins i.e., serine-rich proteins which are not cysteine-rich as well as those which are also cysteine-rich. However, while the specification teaches the amino acid composition of 3 specific proteins (IL-12 p40, leptin and G-CSF) as well as the average of *E. coli* proteins the specification nowhere either explicitly or implicitly provides any indication that the claimed process is intended to be limited to serine-rich proteins that are not also cysteine-rich proteins. As such the added limitation is new matter.

The 103 rejection over Ramirez et al. and Lamouse-Smith et al. in view of Martens et al., Swiss-Pat Accession No. P29460, Hatamoto et al. (JP 09/009982) and Koonin et al. is withdrawn in view of the amendments to the claims to limit the scope of the heterologous protein to serine-rich proteins which contains cysteine less than or the same as the average cysteine content in cellular proteins of the bacterium, as the cited art does not suggest that *cysK* expression will increase the level of serine synthesis and cysteine would not be expected to be in short

Art Unit: 1652

supply in production of proteins with normal levels of this amino acid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed, can be reached at (571) 272-0934. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rebecca Prouty/
Primary Examiner
Art Unit 1652